

## Nijjar v. Canada (Minister of Citizenship and Immigration), 2002 FCT 958 (CanLII)

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Docket: IMM-466-02

Neutral citation: 2002 FCT 958

BETWEEN:

PARMJIT SINGH NIJJAR and RAMANDEEP KAUR NIJJAR

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER

**DAWSON J.**

[1] The CRDD found Mr. and Mrs. Nijjar not to be Convention refugees because of the existence of an internal flight alternative ("IFA"). Mr. and Mrs. Nijjar argue that such conclusion was not based on the totality of the evidence and that the CRDD misapprehended the basis of Mrs. Nijjar's claim.

[2] Mr. and Mrs. Nijjar are citizens of India who claim a well-founded fear of persecution at the hands of the Punjab police by reason of their race, religion, perceived political opinion and membership in the particular social group defined as Jat Sikh. Additionally, Mrs. Nijjar claims that her step-mother has threatened to kill her because she refused to go through with an arranged marriage and instead made a marriage of choice. Mrs. Nijjar believes that the police were bribed by her step-mother to threaten and harass Mrs. Nijjar, her husband and her in-laws.

[3] The CRDD made no findings in relation to credibility or the well-foundedness of the claimed fear of persecution. Instead, the CRDD found a viable IFA in a major city such as Delhi, Calcutta or any other area outside of Punjab.

[4] I agree with the submission of counsel for Mr. and Mrs. Nijjar that in the absence of findings of credibility the evidence they gave to the CRDD must be accepted as truthful.

[5] On the basis of that testimony the CRDD found that:

1. Authorities in Punjab had no serious interest in Mr. Nijjar as evidenced by the fact that he had never been arrested, detained or charged during the years of the insurgency, that subsequently he was able to travel freely in and out of India, and that even in 1998 when the police came to his home they did not arrest him. The CRDD found Mr. Nijjar's name not to be on any list maintained by the authorities.

2. It was speculative to link any police activity to Mrs. Nijjar's step-mother, and in any event neither Mr. or Mrs. Nijjar testified that the step-mother would be capable of pursuing them beyond Punjab.

[6] Those findings could reasonably be made based on the testimony of Mr. and Mrs. Nijjar.

[7] On the basis of the finding of fact that the Punjab police had no serious interest in Mr. Nijjar, the documentary evidence supported the conclusion that Mr. Nijjar would not be pursued outside of Punjab by the police.

[8] While the CRDD acknowledged there was disagreement in the documentary evidence as to whether the Punjab police would pursue someone they wanted outside the state, the sources which said that the police would be likely to pursue someone also stated that people so at risk included militants or perceived militants and their families, and habitual offenders who are rounded up whenever anything untoward happens. Lists of habitual offenders were noted to be distributed across India via the police computer system.

[9] Therefore, in view of the findings that Mr. Nijjar was on no list, travelled freely in and out of India and had never been arrested, detained or charged, even on the basis of the documentary evidence most favourable to Mr. Nijjar's claim the CRDD's conclusion that the police would not pursue Mr. or Mrs. Nijjar out of Punjab was not patently unreasonable or clearly wrong.

[10] Similarly, in view of the lack of evidence to suggest that the step-mother would be capable of pursuing Mr. and Mrs. Nijjar outside of Punjab, and the lack of evidence that she would be likely to learn of their whereabouts in the IFA location, the finding of an IFA on this basis of the claim was not patently unreasonable or clearly wrong.

[11] Therefore, despite the able submissions of their counsel, Mr. and Mrs. Nijjar failed to establish either that the CRDD's decision was not based on the totality of the evidence or that the CRDD misapprehended the basis of Mrs. Nijjar's claim.

[12] For these reasons, the application for judicial review was dismissed. Counsel posed no question for certification and no question was certified.

"Eleanor R. Dawson"

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Judge

Ottawa, Ontario

September 11, 2002

**FEDERAL COURT OF CANADA**

**TRIAL DIVISION**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-466-02

**STYLE OF CAUSE:** Parmjit Singh Nijjar et al. v. MCI

**PLACE OF HEARING:** Vancouver, British Columbia

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**REASONS FOR ORDER :** DAWSON J.

**DATED:** September 11, 2002

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